

# *The* **NORTH CAROLINA REGISTER**

RECEIVED

MAY 17 1990

LAW LIBRARY

**IN THIS ISSUE .....**

**FINAL DECISION LETTER**

**PROPOSED RULES**

**Environment, Health and  
Natural Resources**

**Insurance**

**Nursing, Board of  
Secretary of State**

**FINAL RULES**

**List of Rules Codified**

**ISSUE DATE: MAY 15, 1990**

**Volume 5 • Issue 4 • Pages 286-312**



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

**North Carolina Register.** Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

**North Carolina Administrative Code.** Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

# ***NORTH CAROLINA REGISTER***



*Office of Administrative Hearings  
P. O. Drawer 11666  
Raleigh, NC 27604  
(919) 733 - 2678*

Julian Mann III,  
*Director*  
James R. Scarcella Sr.,  
*Deputy Director*  
Molly Masich,  
*Director APA Services*

**Staff:**  
Ruby Creech,  
*Publications Coordinator*  
Teresa Kilpatrick,  
*Editorial Assistant*  
Jean Shirley,  
*Editorial Assistant*

## **ISSUE CONTENTS**

### **I. FINAL DECISION LETTER**

Voting Rights Act.....286

### **II. PROPOSED RULES**

#### **Environment, Health, and Natural Resources**

Coastal Management.....292

Wildlife Resources

Commission .....293

#### **Insurance**

Life: Accident and Health

Division .....287

#### **Licensing Board**

Nursing, Board of.....300

#### **Secretary of State**

Securities Division.....293

### **III. FINAL RULES**

List of Rules Codified.....302

### **IV. CUMULATIVE INDEX.....311**

**NORTH CAROLINA REGISTER**  
*Publication Schedule*  
*(January 1990 - December 1991)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01 02 90	12 07 89	12 14 89	02 01 90	05 01 90
01 16 90	12 20 89	12 29 89	02 15 90	05 01 90
02 01 90	01 10 90	01 18 90	03 03 90	06 01 90
02 15 90	01 25 90	02 01 90	03 17 90	06 01 90
03 01 90	02 08 90	02 15 90	03 31 90	07 01 90
03 15 90	02 22 90	03 01 90	04 14 90	07 01 90
04 02 90	03 12 90	03 19 90	05 02 90	08 01 90
04 16 90	03 23 90	03 30 90	05 16 90	08 01 90
05 01 90	04 09 90	04 17 90	05 31 90	09 01 90
05 15 90	04 24 90	05 01 90	06 14 90	09 01 90
06 01 90	05 10 90	05 17 90	07 01 90	10 01 90
06 15 90	05 24 90	06 01 90	07 15 90	10 01 90
07 02 90	06 11 90	06 18 90	08 01 90	11 01 90
07 16 90	06 22 90	06 29 90	08 15 90	11 01 90
08 01 90	07 11 90	07 18 90	08 31 90	12 01 90
08 15 90	07 25 90	08 01 90	09 14 90	12 01 90
09 04 90	08 13 90	08 20 90	10 04 90	01 01 91
09 14 90	08 24 90	08 31 90	10 14 90	01 01 91
10 01 90	09 10 90	09 17 90	10 31 90	02 01 91
10 15 90	09 25 90	10 02 90	11 14 90	02 01 91
11 01 90	10 11 90	10 18 90	11 30 90	03 01 91
11 15 90	10 24 90	10 31 90	12 14 90	03 01 91
12 03 90	11 08 90	11 15 90	01 02 91	04 01 91
12 14 90	11 21 90	11 30 90	01 13 91	04 01 91
01 02 91	12 07 90	12 14 90	02 01 91	05 01 91
02 01 91	01 10 91	01 18 91	03 03 91	06 01 91
03 01 91	02 08 91	02 15 91	03 31 91	07 01 91
04 01 91	03 11 91	03 18 91	05 01 91	08 01 91
05 01 91	04 10 91	04 17 91	05 31 91	09 01 91
06 03 91	05 10 91	05 17 91	07 03 91	10 01 91
07 01 91	06 10 91	06 17 91	07 31 91	11 01 91
08 01 91	07 11 91	07 18 91	08 31 91	12 01 91
09 03 91	08 12 91	08 19 91	10 03 91	01 01 92
10 01 91	09 10 91	09 17 91	10 31 91	02 01 92
11 01 91	10 11 91	10 18 91	12 01 91	03 01 92
12 02 91	11 07 91	11 14 91	01 01 92	04 01 92

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

**VOTING RIGHTS ACT FINAL DECISION LETTER**

---

*[G.S. 120-30.911, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]*

U.S. Department of Justice  
Civil Rights Division

JRD:GS:ST:rac  
DJ 166-012-3  
Z7818

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

April 18, 1990

George A. Weaver, Esq.  
Lee, Reece & Weaver  
P.O. Box 2047  
Wilson, North Carolina 27894-2047

Dear Mr. Weaver:

This refers to the realignment of voting precincts in Wilson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on February 21, 1990.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Barry H. Weinberg  
Acting Chief, Voting Section



**TITLE 11 - DEPARTMENT OF  
INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to adopt rule(s) cited as 11 NCAC 12 .0901 - .0917.*

*The proposed effective date of this action is October 1, 1990.*

*The public hearing will be conducted at 10:00 a.m. on July 2, 1990 at Dobbs Building, 3rd Floor Conference Room, 430 N. Salisbury Street, Raleigh, N.C. 27611.*

*Comment Procedures: Written comments may be sent to Rodney Finger, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Rodney Finger at (919) 733-5060, or Ellen Sprengel at (919) 733-4700.*

**CHAPTER 12 - LIFE: ACCIDENT AND HEALTH  
DIVISION**

**SECTION .0900 - UTILIZATION REVIEW**

**.0901 PURPOSE**

- (a) The purpose of this Section is to:
- (1) promote the delivery of quality health care in a cost effective manner;
  - (2) foster greater coordination between health care providers, insureds, payers, and utilization review entities;
  - (3) improve communications and knowledge of health care benefits and services among all parties concerned before expenses are incurred;
  - (4) protect insureds, payers, and health care providers by ensuring that qualified persons perform utilization review and make informed decisions on the medical necessity of health care;
  - (5) ensure that utilization review entities maintain confidentiality of medical records in accordance with applicable state and federal laws; and
  - (6) enhance the health and welfare of the citizens of North Carolina by providing for orderly and efficient review of health care; which review minimizes unnecessary health care while guaranteeing that insureds receive, and providers are compensated for, medically necessary health care.
- (b) In order to attain these ends, it is necessary to establish minimum standards for utilization

review entities; establish minimum standards for utilization review plans used in reviews; require payers to do business only with entities that meet such standards; and require payers that perform review for their own contracts to meet such standards.

*Statutory Authority G.S. 58-50-60.*

**.0902 DEFINITIONS**

As used in this Section:

- (1) "Adverse decision" means a full or partial denial of coverage for a requested service.
- (2) "Contract" means an insurance policy; hospital, medical, or dental service plan contract; HMO plan; preferred provider arrangement; self-insured workers' compensation plan; or multiple employer welfare arrangement; that provides benefits or services for health care.
- (3) "Criteria" means predetermined, measurable elements of health care against which actual occurrences can be compared.
- (4) "Health care provider" or "provider" includes any person who is licensed or otherwise registered or certified to engage in the practice of, or otherwise performs duties associated with, any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a health service facility as defined in G.S. 131E-176(9b).
- (5) "Insured" means any person eligible for health care benefits or services under a contract.
- (6) "License" means a payer's certificate of authority or registration.
- (7) "Payer" means any insurer or person subject to regulation and licensing under Articles 1 through 67 of Chapter 58 of the General Statutes, including preferred provider arrangements and third party administrators; means an individual employer or group of employers self-insuring their workers' compensation liabilities pursuant to G.S. 97-93; and means a multiple employer welfare arrangement.
- (8) "Person" includes an individual, aggregation of individuals, partnership, corporation, or unincorporated association.
- (9) "Standards" means professionally developed statements of the range of acceptable variation from a norm or criteria.

- (10) "Utilization review" or "review" means a system for reviewing the necessary, appropriate, and efficient allocation of health care resources and services given or proposed to be given to an insured or group of insureds; and includes:
- (a) the review of the rendering of health care by providers for which provision or reimbursement is made under contracts, for the purpose of determining whether such care is medically necessary; and
  - (b) the evaluation of health care and health service facilities based on criteria defined in this Section.
- (11) "Utilization review entity" or "entity" means any person performing utilization review for a payer; and means any payer performing utilization review for the payer's own contract.
- (12) "Utilization review plan" or "plan" means a written procedure for performing utilization review.

*Statutory Authority G.S. 58-50-60.*

#### **.0903 APPLICATION TO AND COMPLIANCE BY PAYERS**

(a) No payer whose contract covers persons in North Carolina may contract for review to be performed on his behalf with an entity that does not meet the requirements and standards of this Section. No payer whose contract covers persons in North Carolina may perform review for his own contract unless he meets the requirements and standards of this Section.

(b) Payers subject to this Section have 90 days after October 1, 1990, to comply with this Section. On or before April 1 of each year, every payer subject to this Section shall provide the Commissioner with a certification that the payer is in compliance with this Section. Each certification shall be accompanied by a nonrefundable filing fee as provided by statute.

(c) This Section does not apply to utilization review performed solely under contract with the federal government for review of patients eligible for services under Titles XVIII (Medicare) or XIX (Medicaid) of the federal Social Security Act or under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

(d) The Commissioner may refuse to issue or renew and may suspend or revoke a license, if he determines that a payer has failed or refused to comply with the provisions of this Section or any order issued pursuant to this Section.

*Statutory Authority G.S. 58-3-100(1); 58-50-60; 97-93(b).*

#### **.0904 REQUIREMENTS FOR UTILIZATION REVIEW**

In addition to other requirements prescribed by this Section, every agreement between a payer and an entity and every plan of a payer performing review for its own contracts shall contain the following:

- (1) a provision for advance notice to insureds of any requirements for precertification or preapproval of the necessity of health care and any other prerequisite to approval of payment;
- (2) a provision for an appeals process in accordance with 11 NCAC 12 .0914;
- (3) policies and procedures that will ensure that a representative of the entity, authorized to approve the medical necessity of health care, is available to insureds and providers in accordance with 11 NCAC 12 .0907;
- (4) policies and procedures to ensure that the entity shall communicate its decision on proposed nonemergency health care no later than 48 hours after initial contact by the insured, his representative, or his provider; or if additional information is requested by the entity, no later than 48 hours after receipt by the entity of such information; and that if the entity fails to meet such deadline, such care shall be deemed to be medically necessary;
- (5) a provision for notification to providers and insureds of the requirements of the utilization review plan;
- (6) a provision that if health care is deemed to be medically necessary by the entity or payer and that decision is communicated to the insured or his provider, the payer shall provide coverage for such care regardless of whether such care is covered by the contract; and
- (7) policies and procedures designed to ensure confidentiality of insureds' medical records and personal information in accordance with 11 NCAC 12 .0911(d).

*Statutory Authority G.S. 58-50-60.*

#### **.0905 UTILIZATION REVIEW PLAN**

(a) Every payer subject to this Section shall, at the request of the Commissioner, provide the Commissioner a copy of the utilization review plan that is used by an entity with which it contracts or that is used by the payer.

(b) Every plan shall contain:

- (1) specific standards and procedures to be used in evaluating the medical necessity of health care;

- (2) a provision that determinations of medical necessity of health care shall only be made in accordance with this Section;
- (3) identification of the methodology and assumptions employed in the development of the standards applied under the plan;
- (4) assurances that the standards and criteria to be applied in determinations of medical necessity accurately reflect current practices and standards of the geographic region in which they are to be applied; and
- (5) that any adverse decisions shall be reviewed in accordance with 11 NCAC 12 .0914.

*Statutory Authority G.S. 58-50-60.*

**.0906 MINIMUM STANDARDS FOR  
UTILIZATION REVIEW ENTITIES**

(a) The review of bills of providers shall be limited to whether the care was actually provided and to whether the care was medically necessary.

(b) Each entity shall apply professionally developed norms of care, diagnosis, and treatment, based upon typical patterns of practice within North Carolina and the geographic region or regions within North Carolina served by the entity as principal points of evaluation of review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include:

- (1) the types and extent of the health care that, taking into account differing but acceptable modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and
- (2) the type of health service facility that is considered, consistent with such standards, to be the type in which health care that is medically appropriate for such illness or condition can most economically be provided.

As a component of the norms described in this Section, the entity shall take into account the special problems associated with delivering care in remote rural areas, the availability of service options to inpatient hospitalization, and other appropriate factors that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis. Other appropriate factors include the distance from an insured's residence to the site of care, family support, availability of proximate optional sites of care, and the insured's

ability to carry out necessary or prescribed self-care regimens.

(c) Each entity shall make arrangements to use the services of persons who are licensed practitioners of or specialists in the various areas of health care and shall have available at all times the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons, supported and supervised by a licensed physician, to carry out its review.

(d) Before rendering an adverse decision, each entity shall review the information provided to the entity in accordance with 11 NCAC 12 .0908.

(e) No health care provider shall be permitted to review health care provided to an insured if he was directly responsible for providing such health care in or by an institution, organization, or agency, in which he or any member of his family has, directly or indirectly, a significant financial interest. For the purpose of this Rule, a health care provider's family includes only his spouse, other than a spouse who is legally separated from him under a decree of divorce or separate maintenance; children, including legally adopted children; grandchildren; parents; and grandparents.

(f) No entity shall use the services of any health care provider to make adverse decisions with respect to the professional conduct of or act performed by a different category of health care provider.

*Statutory Authority G.S. 58-50-60.*

**.0907 ACCESSIBILITY**

An entity shall provide free telephone access to insureds and providers at least 40 hours per week during normal business hours. Payers using entities located outside of the eastern time zone must provide insureds advance written notification of the eastern time hours during which those entities are accessible; provided that such hours shall be no less than 40 hours per week. It is the responsibility of the entity to install and maintain an adequate telephone system and equipment. An adequate telephone system must include, among other features, the abilities to monitor downtime in the telephone system, to track lost calls, and to accept and record incoming calls outside of normal business hours. The Commissioner may determine, upon written request, that other telephone systems are adequate in special circumstances.

*Statutory Authority G.S. 58-50-60.*

**.0908 STANDARD FORM FOR INFORMATION**



(a) The information required by an entity, whether transmitted electronically, by telephone, by mail, or otherwise, shall routinely be limited to those data listed in Paragraph (b) of this Rule. Additional information shall only be required when special circumstances warrant. Additional information shall not be requested that is unnecessary, duplicative, or unduly burdensome; nor shall such additional information be requested solely for the purpose of delay.

(b) The Commissioner shall prescribe a form that lists the information that may be elicited by entities from providers and insureds in performing review. The form shall comprise and cover specifics for the following general information:

- (1) patient information, including full name, address, date of birth, gender, social security or HMO ID number, and name of payer per ID card;
- (2) insured information if different from patient, including full name, address, social security or HMO ID number, relation to patient, employer, contract, group, or HMO ID number, and other coverage;
- (3) attending provider information, including full name, address, telephone, degree and specialty, tax ID number, and provider, HMO or PPO number;
- (4) clinical information, including primary diagnosis and ICD/DSM codes, secondary diagnoses, procedure(s) or treatment(s), second opinion requirement if any, and second opinion waiver if any;
- (5) clinical information to support appropriateness and level of service requests, such as H and P, lab, or X-ray, and any discharge planning;
- (6) resources, including facility type, name, address, and telephone, any surgical assistant information, anesthesia if any, admission date, procedure date, and requested length of stay; and
- (7) continued stay if any, including date, entity contact, provider contact, additional days or visits requested, reasons for extension, diagnosis, treatment plan.

*Statutory Authority G.S. 58-50-60.*

#### **.0909 MEDICAL CRITERIA**

Utilization review decisions shall be made in accordance with accepted current medical criteria, taking into account special circumstances of each case that may require a deviation from the norm stated in the medical criteria. Medical necessity shall be determined by health care providers who are knowledgeable of the standards of health care and utilization in North Carolina

and its geographic regions. Criteria must be objective, clinically valid, and compatible with established principles of health care in North Carolina and its geographic regions.

*Statutory Authority G.S. 58-50-60.*

#### **.0910 ADVERSE DECISIONS**

Notification of an adverse decision shall include the type of review performed, the reason for the denial, the alternate length or type of treatment that the entity deems to be appropriate, the nature of the health care criteria upon which the decision was based, and the opportunity for an appeal pursuant to 11 NCAC 12 .0914. The entity shall not recommend alternate health care if that alternate care is not available to the insured within a reasonable distance of the insured's home. No entity shall render an adverse decision unless it has made a good faith attempt to obtain information from the provider in accordance with 11 NCAC 12 .0908.

*Statutory Authority G.S. 58-50-60.*

#### **.0911 EMERGENCIES; WAIVERS; EXTENSIONS; CONFIDENTIALITY**

(a) For emergency health care, authorization may be requested by the insured, his representative, or his provider either within 48 hours of or by the end of the second business day following the rendering of the emergency health care.

(b) In cases in which an insured's medical condition renders him unable to comply with review requirements, such requirements shall be waived. The request for waiver may be made by the insured, his representative, or his provider.

(c) An entity shall promptly review a request from the insured, his representative, or his provider for an extension of the original approved duration of health care or hospitalization. If the entity fails to confirm that termination of health care or hospitalization will occur on the original date authorized, the entity shall retrospectively review whether the extension of health care or hospitalization was medically or otherwise justified.

(d) Each entity shall develop written procedures to protect the confidentiality of medical record information and personal information, as those terms are defined in G.S. 58-39-15.

*Statutory Authority G.S. 58-50-60.*

#### **.0912 EDUCATION OF INSURED ABOUT REVIEW REQUIREMENTS**

Every payer that requires review shall institute and maintain a program of education to inform

insureds about the requirements of review, beginning on or before the date its contract is issued. A record of educational programs shall be kept for a period of three years for inspection by the Commissioner.

*Statutory Authority G.S. 58-50-60.*

**.0913 IDENTIFICATION CARDS, CERTIFICATES, AND BOOKLETS**

Utilization review information shall be provided on every contract identification card, certificate, and benefit booklet. The information provided shall include the address and telephone number of the entity and the hours of accessibility pursuant to 11 NCAC 12 .0907. The certificate or booklet shall also contain information on the appeal procedure.

*Statutory Authority G.S. 58-50-60.*

**.0914 APPEALS OF ADVERSE DECISIONS**

(a) Each entity shall establish an appeals committee to hear and reconsider any adverse decision that is appealed by an insured, his representative, or his provider. Except as provided in Paragraph (e) of this Rule, written notification of the results of the appeal process shall be provided to the appellant no later than 30 days after the date the appeal is made.

(b) The appeals committee shall comprise at least one provider who is practicing the same health care specialty as the provider that renders or proposes to render health care to the insured and who did not participate in the adverse decision being appealed.

(c) Except as provided in Paragraph (e) of this Rule, a written decision shall be delivered to the appellant with supporting reasons no later than five days after the hearing.

(d) The entity shall provide an opportunity for the appellant to present additional evidence and arguments during the course of the hearing. Before rendering a final decision, the committee shall review the pertinent medical records of the insured's provider and the pertinent records of any facility in which health care is provided to the insured.

(e) Where an insured, his representative, or his provider requests an expedited appeal, the entity must make such appeal proceeding, including access to its consulting providers, available within 72 hours after the request and make decisions not less than one working day after the date of the hearing of the expedited appeal. An expedited appeal may be requested only when the regular appeals process will cause a delay in the rendering

of health care that would be detrimental to the health of the insured.

(f) The appeals process described in this Rule does not apply to any adverse decision made solely on the basis that a contract does not provide benefits for the health care performed or being requested.

*Statutory Authority G.S. 58-50-60.*

**.0915 RECORDS, EXAMINATIONS, AND TELEPHONE AUDITS**

(a) Whenever the Commissioner deems it to be prudent for the benefit of insureds, providers, or payers, he or any person he designates may visit and examine the affairs of any payer subject to this Section or any entity with which the payer contracts to determine if the payer or entity is in compliance with this Section or with any orders that are issued pursuant to this Section. The Commissioner may also conduct a telephone audit of an entity through a person designated by the Commissioner, through a telephone utility, or both. The affected payer shall reimburse the Commissioner for the expenses of such examination or telephone audit as required by statute.

(b) Every payer subject to this Section shall maintain or cause to be maintained, in writing and at a location to be specified to the Commissioner, records of review procedures; the health care qualifications of the entity's staff; the criteria used by the entity to make its decisions; a record of review complaints received; a record of the number and type of adverse decisions; a record of the number and outcome of any appeals; the procedures to ensure confidentiality of medical records and personal information; and a list of clients. Records shall be maintained or cause to be maintained by the payer for a period of three years.

*Statutory Authority G.S. 58-50-60.*

**.0916 PROHIBITED ACTS**

(a) No payer shall authorize, allow, commit, offer, or undertake to offer any breach of confidentiality of an insured's medical records or personal information, including the disclosure or publication of individual medical records or any other confidential medical information.

(b) No payer shall reimburse any entity solely on the basis of:

- (1) amounts or expenditures saved or reduced by the entity;
- (2) promises by the entity to reduce health care expenditures by certain amounts or percentages;

- (3) business plans or utilization plans targeting overall cost reductions by an entity.

*Statutory Authority G.S. 58-50-60.*

**.0917 REPORT ON UTILIZATION REVIEW EXPERIENCE**

On or before April 1 of each year, every payer subject to this Section shall file or cause to be filed a report with the Commissioner, which report covers review performed for or by the payer during the preceding calendar year and includes the following:

- (1) the number and type of reviews performed;
- (2) the results of the reviews and whether benefits were denied or reduced by the payer;
- (3) the number and results of any appeals under 11 NCAC 12 .0914;
- (4) any complaints filed in any court stating a cause of action arising out of the performance of review; and
- (5) a record of any complaints received about the performance of review.

*Statutory Authority G.S. 58-50-60.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-12 that the EHNHR - Division of Coastal Management intends to adopt rule(s) cited as 15A NCAC 7M .1101 - .1102.*

*The proposed effective date of this action is November 1, 1990.*

*The public hearing will be conducted at 10:00 a.m. on July 26, 1990 at Sheraton New Bern Hotel & Marina, One Bicentennial Park, New Bern, North Carolina 28560.*

*Comment Procedures: All persons interested in these matters are invited to attend the public hearing. The Coastal Resources Commission will receive written comments up to the date of the hearing. Any persons desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting: Portia Rochelle, Division of Coastal Management, PO Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.*

**CHAPTER 7 - COASTAL MANAGEMENT**

**SUBCHAPTER 7M - GENERAL POLICY GUIDELINES FOR THE COASTAL AREA**

**SECTION .1100 - POLICIES TO MAINTAIN PRODUCTIVITY OF ESTUARINE RESOURCES**

**.1101 DECLARATION OF GENERAL POLICY**

(a) It is hereby declared that the continued productivity and economic viability of North Carolina's estuarine and public trust resources are necessary to maintain and support commercial fishing, recreational fishing, and aquaculture projects that rely on marine and estuarine resources. These industries are important to the economy and lifestyle of North Carolina. The species of fish and shellfish that support these industries depend upon good water quality and availability of high quality habitat for their growth and survival.

(b) Habitat protection and management of the utilization of coastal resources is the responsibility of many agencies. The CRC has direct authority for controlling many development activities such as dredging, marina siting and water quality impacts and has undertaken control measures to address these activities. Reasonable and effective regulations should be developed by all responsible agencies to protect critical habitats and control harvesting techniques that have the likelihood of damaging these resources. It is hereby declared that the general welfare and public interest require that all State, Federal and local agencies coordinate their activities to insure optimal estuarine productivity.

*Statutory Authority G.S. 113A-102(b); 113A-107; 113A-124.*

**.1102 POLICY STATEMENTS**

(a) The Coastal Resources Commission recognizes the importance of protecting the highest quality coastal waters and aquatic habitats such as Outstanding Resource Waters and Primary Nursery Areas and encourages the Marine Fisheries Commission and other resource agencies to take the necessary steps to prevent environmental harm to aquatic resources from fishing practices.

(b) Activities that have a high probability of degrading water quality or damaging the habitat and its living resources shall not be allowed in these special areas.

(c) The Coastal Resources Commission encourages the Marine Fisheries Commission to develop and maintain regulations governing fish and shellfish harvest practices, including mechanical harvesting and other bottom disturbing



activities to protect water quality and habitat integrity.

(d) The Marine Fisheries Commission is further encouraged to develop and maintain appropriate fishing regulations to address the adverse impacts of trawling and other activities that are determined to be detrimental to the productivity of the State's coastal rivers and sounds.

Statutory Authority G.S. 113A-102(b); 113A-107; 113A-124.

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-12 that the EHNH - North Carolina Wildlife Resources Commission intends to adopt rule(s) cited as 15A NCAC 10F .0363.*

*The proposed effective date of this action is September 1, 1990.*

*The public hearing will be conducted at 10:00 a.m. on June 18, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from June 4, 1990 to July 3, 1990. Such written comments must be delivered or mailed to the N. C. Wildlife Commission, 512 N. Salisbury Street, Raleigh, NC 27611.*

#### CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

##### SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

##### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

##### .0363 CASWELL AND PERSON COUNTIES

(a) Regulated Areas. This Rule applies only on that portion of the waters of Hyco Lake which lies within the boundaries of Caswell and Person Counties and to the restricted zones indicated by Paragraphs (b) and (c) of this Rule on such waters.

(b) Speed Limit Near Bridges. No person shall operate a vessel at greater than no-wake speed limit within 50 yards of any bridges crossing over Hyco Lake.

(c) Speed Limit in Canals. No person shall operate a vessel at greater than no-wake speed limit within any canals connected to Hyco Lake.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Caswell and Person Counties are hereby designated as suitable agencies for placement and maintenance of the markers implementing this Rule.

Statutory Authority G.S. 75A-3; 75A-15.

#### TITLE 18 - SECRETARY OF STATE

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of the Secretary of State, Securities Division intends to amend rule(s) cited as 18 NCAC 6 .1104, .1202, .1206, .1208, .1303 - .1304, .1307, .1314, .1316, .1401, .1509, .1602, .1701, .1811; and adopt rule(s) cited as 18 NCAC 6 .1607.*

*The proposed effective date of this action is September 1, 1990.*

*The public hearing will be conducted at 10:00 a.m. on June 14, 1990 at Securities Division, Legislative Office Building, 300 N. Salisbury Street - Suite 404, Raleigh, NC 27611.*

*Comment Procedures: Any interested person may present written comments for consideration by the Securities Division. The hearing record will remain open for receipt of comments from May 15, 1990, through June 14, 1990. Written comments should be received by the Division by midnight on June 13, 1990, to be considered as part of the hearing record. Comments should be addressed to:*

Stephen M. Wallis  
Deputy Securities Administrator  
Office of the Secretary of State  
Securities Division  
300 N. Salisbury St.  
Room 404  
Raleigh, NC 27603-5909

*Any person may present oral comments at the hearings. Requests to speak should be presented in writing to Mr. Wallis at the above address no later than five days before the date of the respective hearing. Additional comments may be allowed by the Division by sign up at the public hearing as time allows. All presentations will be limited to 5 minutes. No fiscal note has been prepared pursuant to G.S. 150B-11(3) in connection with these proposed changes to the ad-*



*ministrative rules of the Division, as the proposed changes will not require the expenditure or distribution of State funds.*

*With the exception of 18 NCAC 6 .1607, which is proposed to be adopted as a new rule, these rules are amendments to the current rules of the Securities Division at 18 NCAC 6 .1100 through .1800. The proposed effective date is September 1, 1990.*

## CHAPTER 6 - SECURITIES DIVISION

### SECTION .1100 - GENERAL PROVISIONS

#### .1104 DEFINITIONS

(c) "Direct Participation Program" shall mean a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, ~~Subchapter S corporate offerings~~ and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules or regulations adopted pursuant hereto the term shall mean each of the separate entities or programs making up the overall program and/or the overall program itself. Excluded from this definition are Subchapter S corporate offerings, real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403 (a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, and any company registered pursuant to the Investment Company Act of 1940.

*Statutory Authority G.S. 78A-49(a).*

### SECTION .1200 - EXEMPTIONS

#### .1202 RECOGNIZED SECURITIES MANUALS

(a) The publications recognized by the administrator as securities manuals for the purposes set forth in G.S. 78A-17(2)a. shall be:

- (1) Standard and Poor's Corporation Records,
- (2) Moody's Industrial Manual,
- (3) Moody's Over-the-Counter Industrial Manual, and
- (4) Periodic supplements to each recognized securities manual.

Other publications may be recognized by the administrator, on a case by case basis, upon a showing that the information required by G.S.

78A-17 (2)a. is actually contained in the publication.

*Statutory Authority G.S. 78A-17 (2)a.; 78A-49 (a).*

#### .1206 LIMITED OFFERING EXEMPTION PURSUANT TO G.S. 78A-17(17)

(a) Transactions made in reliance upon Rule 505 or Rule 506 of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, 17 C.F.R. 230.505 (1982) and 17 C.F.R. 230.506 (1982) (and as subsequently amended), including any offer or sale made exempt by application of Rule 508(a), as made effective in Release No. 33-6389 and as amended in Release Nos. 33-6437, 33-6663, 33-6758, and 33-6825, shall be exempt from the requirements of G.S. 78A-24, provided there is compliance with the conditions and limitations of this Rule .1206 and Rules .1207 and .1208 of this Section.

(7) Transactions which are exempt under this Rule may not be combined with offers and sales exempt under any other rule or section of this Act; however, nothing in this limitation shall act as an election. Should for any reason, an offer and sale of securities made in reliance upon the exemption provided by this Rule .1206 fail to comply with all of the conditions hereof, the issuer may claim the availability of any other applicable exemption.

(8) Any offer or sale shall be deemed to have been made in compliance with the exemption provided by this Rule .1206 if the issuer has substantially complied in all material respects with this exemption. A failure to comply with a term, condition or requirement of Subparagraphs (a)(2) and (a)(3) of this Rule will not result in loss of the exemption from the requirements of G.S. 78A-24 for any offer or sale to a particular individual or entity if the person relying on the exemption shows:

(A) the failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and

(B) the failure to comply was insignificant with respect to the offering as a whole; and

(C) a good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of Subparagraphs (a)(2) and (a)(3).

Where an exemption is established only through reliance upon this Subparagraph

(8) of this Rule, the failure to comply shall nonetheless be actionable by the administrator under G.S. 78A-47.

*Statutory Authority G.S. 78A-17 (17); 78A-49 (a).*

**.1208 TRANSACTIONS EXEMPT UNDER RULE .1206: FILING REQUIREMENTS**

(e) The administrator shall treat as confidential and not subject to public inspection the information required to be filed pursuant to Subparagraph (b)(2) of this Rule .1208 unless he shall determine that such treatment is not consistent with the public interest, in which case he may make public such of the filed information as he may deem necessary for protection of the public interest.

(e) (f) The provisions of this Rule .1208 shall not apply to offers or sales of a security made pursuant to Rule .1206 of this Section if the security is offered to not more than five individuals who reside in this State.

*Statutory Authority G. S. 78A-17 (17); 78A-49 (a).*

**SECTION .1300 - REGISTRATION OF SECURITIES**

**.1303 REGISTRATION BY QUALIFICATION**

(c) The prospectus requirement of Paragraph (b) of this Rule may be satisfied by the use of the NASAA Form U-7 (Small Corporate Offerings Registration Form) (as found at CCH NASAA Reports 5057) if the use of that form is allowed by the instructions to Form U-7 for the securities offering being registered.

*Statutory Authority G.S. 78A-27(d); 78A-49(a).*

**.1304 SECURITIES REGISTRATION AND FILING FEES**

(b) The aggregate offering amount of an original or amended registration may be increased prior to or after the effectiveness of the registration by providing the administrator the following:

- (1) An additional registration filing fee of fifty dollars (\$50.00) if such filing occurs after the effective date of the offering;

*Statutory Authority G.S. 78A-28(b); 78A-28(j); 78A-49(a).*

**.1307 COMMISSIONS AND EXPENSES**

(a) The aggregate amount of all payments including commissions, compensation, discounts, fees, remuneration, mark-ups, and service charges paid or to be paid, directly or indirectly, to

underwriters, dealers, salesmen and finders with respect to the public offering of securities shall not exceed ten percent of the aggregate selling price of the securities. For the purposes of this Paragraph (a), the aggregate amount of all payments shall exclude payments related to justifiable due diligence investigation of the issuer.

(b) The aggregate amount of all payments including commissions, discounts, fees, remuneration, mark-ups, and service charges as computed in Paragraph (a) of this Rule and other selling expenses as described in Paragraph (d) of this Rule incurred or to be incurred in connection with the offer or sale of securities: including but not limited to, legal, accounting, engineering, printing, certification, registration expenses, and payments related to justifiable due diligence investigation of the issuer shall not exceed fifteen percent of the aggregate selling price of the securities.

- (1) Twenty percent of the gross proceeds of the offering for public offerings of two million five hundred thousand dollars (\$2,500,000) or less;
- (2) Eighteen percent of the gross proceeds of the offering for public offerings over two million five hundred thousand dollars (\$2,500,000) and up to seven million five hundred thousand dollars (\$7,500,000); or
- (3) Fifteen percent of the gross proceeds of the offering for public offerings that exceed seven million five hundred thousand dollars (\$7,500,000).

(c) In an application to register securities where warrants, options or rights to purchase shares below the offering price are granted to underwriters, dealers and other persons with respect to the public offering of securities, there shall be included in the calculation pursuant to Paragraph (a) of this Rule an amount equal to the difference between the lowest price at which the warrants, options or rights may be exercised and the public offering price of the securities at the time of effectiveness of registration, less any amount paid for such warrants, options or rights. In cases where no market value for the warrants, options or rights exists, a presumed fair value of twenty percent of the public offering price of the shares to which the warrants, options or rights pertain shall be used for purposes of the calculation of payments pursuant to Paragraph (a) of this Rule, unless evidence indicates that a contrary valuation exists. For purposes of Paragraph (a) of this Rule, any future registration rights of underwriter's options, warrants, or shares at the issuer's expense shall be valued at one percent of the public offering, and any right of first refusal will be valued at one percent of the public offering.



Payments as provided in Paragraph (a) of this Rule which are made or to be made in connection with the sale of securities by a person in which the issuer has an interest or which is controlled by or is under common control with the issuer shall be deemed to have been made by the issuer.

(d) Payments as provided by Paragraph (a) of this Rule shall include all cash, securities (including, but not limited to, options, warrants or rights), contracts, understandings with or for the benefit of any other persons in which any underwriter or dealer is interested, or anything else of value, paid, to be set aside, disposed of, or made in connection with the sale of such securities. Payments made or to be made in connection with the sale of such securities by a person in which the issuer has an interest or which is controlled by or is under common control with the issuer, shall be deemed to have been made by the issuer. Selling expenses as referred to in Paragraph (b) of this Rule may include, but are not limited to, the following:

- (1) Solicitation, conversion, or exercise fees, which shall be valued at the lesser of actual cost or one percent if the fees are payable within one year of the offering;
- (2) Consulting or financial advisory agreements or any other type of agreement or fees, however designated, which shall be valued at actual cost;
- (3) Attorney's fees for services in connection with the issue and sale of the securities and their qualification for sale under applicable laws and regulations;
- (4) Auditors' and accountants' fees;
- (5) The cost of printing prospectuses, circulars and other documents required to comply with securities laws and regulations;
- (6) Charges of transfer agents, registrars, indenture trustees, escrow holders, depositories, engineers, appraisers, and other experts;
- (7) Cost of authorizing and preparing the securities, including issue taxes and stamps; and
- (8) Other expenses incurred in connection with the public offering of securities as determined by the administrator.

(c) Unless otherwise justified, in the case of the sale to the public of outstanding securities by their holders alone or in conjunction with the sale of securities by the issuer, the selling holders shall pay, as the case may be, all or their equitable portion of the payments as provided by Paragraph (a) of this Rule and expenses incident to the offering. The issuer shall file with the administrator, within 120 days after the termination

of the public offering, a written report setting forth the actual amounts of selling expenses incurred in the public offering. The selling expenses are to be broken down by the categories as in Paragraphs (a), (c), and (d) of this Rule.

(f) A public offering or sale of securities that includes offers or sales by selling security holders may be disallowed by the administrator unless the following conditions are met:

- (1) Selling security holders shall pay a pro rata share of all additional selling expenses that are the result of the inclusion of their shares in the public offering;
- (2) The prospectus or offering document shall disclose the amount of selling expenses which the selling securities holders shall pay; and
- (3) With the exception of underwriter's or broker-dealer's compensation, the provisions of Paragraphs (f)(1) and (f)(2) of this Rule shall not apply:
  - (A) if the security holders have a written agreement with the issuer that was entered into one year or more prior to the filing of the public offering, whereby the issuer has agreed to pay all of the selling security holders' selling expenses, and if the selling securities holders have held their securities for at least one year prior to the filing of the public offering; or
  - (B) if the security holders have a written agreement with the issuer, whereby the issuer has agreed to pay all of the selling securities holders' selling expenses, and if the agreement was arrived at through arm's-length negotiations.

(g) (4) In the event of noncompliance with Paragraph (a) of this Rule in reliance upon G.S. 78A-29(b)(1) the applicant shall provide the administrator the following:

- (1) A copy of the rule or rules, promulgated by a national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934, to which the offering or dealer is subject;
- (2) A demonstration that the rule or rules were promulgated to provide safeguards against unreasonable profits or unreasonable rates or commissions or other charges;
- (3) Evidence of the application of the rule or rules to the offering in question, including substantive guidelines, policy statements and interpretations utilized in determining compliance therewith; and
- (4) Such other evidence of compliance with such rules as the administrator so requires.

(h) ~~(g)~~ The administrator may modify or waive, upon the showing of good cause by the applicant, or upon the administrator's own initiative, the requirements of ~~Paragraphs (a), or (b)~~ of this Rule, in whole or in part, with respect to a particular offering of securities.

Statutory Authority G.S. 78A-29(a)(2)f.; 78A-29(b)(2); 78A-49(a).

#### .1314 ESCROW AGREEMENTS

Where, as a condition to registration of a security in North Carolina, an escrow agreement is required, such agreement shall provide that all funds shall be returned immediately to the investors in full, without reduction of any fees, commissions or expenses unless a specified dollar amount of offering proceeds are received by the escrow agent within a specified period. The time period specified in any escrow agreement may be extended for a time certain if agreed upon by all persons who have theretofore contracted to purchase the security. The escrow agent shall be a federal bank regulated by the Comptroller of the Currency or a state bank regulated by the appropriate state authority. Other depositories may be approved by the administrator on a case by case basis. The provisions of NASAA "Statement of Policy Regarding the Impoundment of Proceeds", as found at CCH NASAA Reports 2151 et seq. (as may be amended from time to time), are incorporated herein by reference. Where an escrow agreement is required as a condition of registration of a security in North Carolina, the NASAA Model Security Escrow Agreement, as found at CCH NASAA Reports 1651, may be used to satisfy such requirement.

Statutory Authority G.S. 78A-28(g); 78A-49(a).

#### .1316 LEGENDS REQUIRED

(a) The following information (to the extent appropriate) shall appear on the cover page of the prospectus or any alternative document, by whatever name known, utilized for the purpose of offering and selling securities: The information required by this Rule .1316 shall be printed in capital letters in bold-face roman type at least as high as ten-point modern type, and at least two points leaded.

- (1) The following statement in capital letters printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded: The following information shall appear on the cover page of any prospectus utilized for the purpose of offering and selling securities subject to registration by the provisions

of the Securities Act of 1933, as amended, and subject to registration by the provisions of Chapter 78A of the North Carolina General Statutes:

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE;

- (2) The following information, to the extent appropriate, shall appear on the cover page of any document utilized in connection with the offer and sale of securities which are exempt from registration under the Securities Act of 1933, as amended, but subject to a filing requirement under Chapter 78A of the North Carolina General Statutes:

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE; and

- (3) (2) If an application for registration relating to these securities has not been filed with the Securities and Exchange Commission, the following statement in capital letters printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded: If these securities are offered or sold pursuant to Section 4(2) of the Securities Act of 1933, as amended, or under the provisions of Regulation D, the following statement shall also appear on the cover page of any of-



fering document utilized in connection with the offer and sale of the securities:

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

(b) Any prospectus which depicts the United States Securities and Exchange Commission's comparable legend pursuant to a registration statement filed under the Securities Act of 1933 or a letter of notification under Regulation A or a schedule under Regulation B of the General Rules and Regulations of the Securities Act of 1933 will be considered in compliance with Paragraph (a).

*Statutory Authority G.S. 78A-10(a); 78A-49(a); 78A-49(b).*

#### **SECTION .1400 - REGISTRATION OF DEALERS AND SALESMEN**

##### **.1401 APPLICATION FOR REGISTRATION OF DEALERS**

(b) The application for registration as a dealer shall be filed as follows:

(1) NASD member dealers shall file applications for initial registration in the State of North Carolina with the NASAA/NASD Central Registration Depository, P.O. Box 37441, Washington, D.C. 20013 and shall file a manually executed Form BD directly with the Securities Division. Applications for renewal of registration shall be filed only with the Central Registration Depository (see Rule .1406 of this Section);

(2) Non-NASD member dealers shall file all applications for registration in the State of North Carolina directly with the Securities Division.

(c) ~~(b)~~ The dealer shall file with the administrator, as soon as practicable but in no event later than thirty days, notice of any disciplinary action taken against the dealer by any exchange of which the dealer is a member; the Securities and

Exchange Commission; the Commodity Futures Trading Commission; any national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934 or any state securities commission and of any civil suit filed against the dealer alleging violation of any federal or state securities laws. If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in any material respect, the dealer shall file a correcting amendment as soon as practicable but in no event later than thirty days.

(d) ~~(e)~~ Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon issuance of a license or written notice of effective registration, unless proceedings are instituted pursuant to G.S. 78A-39. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) ~~(d)~~ Every dealer shall notify the administrator of any change of address, the opening or closing of any office (including the office of any salesman operating apart from the dealer's premises) or any material change thereto, in writing as soon as practicable or by filing concurrently upon filing with NASD an appropriate amendment or schedule to Form BD or any successor form.

*Statutory Authority G.S. 78A-36(a); 78A-37(a); 78A-37(b); 78A-37(d); 78A-38(c); 78A-49(a).*

#### **SECTION .1500 - MISCELLANEOUS PROVISIONS**

##### **.1509 FORMS**

The following forms are available upon request from the Securities Division for use in complying with the provisions of Chapter 78A (the North Carolina Securities Act) of the North Carolina General Statutes and the rules promulgated thereunder:

- (8) North Carolina Securities Administrator's Dealer Bond (Form NCDB); ~~and~~
- (9) Certification of Deposit of Cash or Securities (Form CDCS); and
- (10) Small Corporate Offerings Registration Form (Form U-7).

*Statutory Authority G.S. 78A-49(a)(b).*

#### **SECTION .1600 - REGISTRATION OF QUALIFIED BUSINESSES**

##### **.1602 PROCEDURE FOR APPLICATION FOR REGISTRATION**

(d) Specific Information and Representations Required -- Qualified Business Venture. The application for registration of a "qualified business venture" shall contain the following information and representations on a form entitled "Attachment B -- Qualified Business Venture" available upon request from the Securities Division:

- (1) a certification that the facts set forth in G.S. 105-163.013(b) (1)-(4) apply to the applicant business, and a letter which:
  - (A) describes the business activities in which the applicant business is or will be engaged;
  - (B) describes how such activities meet the requirements of G.S. 105-163.013(b)(3);
  - (C) states whether the applicant business is or will be engaged in any of the activities listed in G.S. 105-163.013(b)(4); and
  - (D) states an estimate of the percentage of the gross revenues expected to be generated by the activities listed in G.S. 105-163.013(b)(4).

(e) Specific Information and Representations Required -- Qualified Grantee Business. The application for registration of a "qualified grantee business" shall contain the following information and representations on a form entitled "Attachment C -- Qualified Grantee Business" available upon request from the Securities Division:

- (1) a certification that the facts set forth in G.S. 105-163.013(c) (1)-(3) apply to the applicant business, and written evidence of the receipt of the grant or funding required by G.S. 105-163.013(c)(3) within the three years preceding the date of the application for registration or for renewal of registration;

Statutory Authority G.S. 105-163.013.

#### .1607 FORMS

For use in registering as a qualified business or in renewing a registration as a qualified business pursuant to G.S. 105-163.013, the following form is available from the Securities Division upon request: Application For Registration As A Qualified Investment Organization Qualified Business Venture Qualified Grantee Business.

Statutory Authority G.S. 105-163.013(d).

### SECTION .1700 - REGISTRATION OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

#### .1701 DEFINITIONS

For purposes of Chapter 78C of the North Carolina General Statutes and Sections .1700 and .1800 of these Rules, the following definitions shall apply:

- (5) "Financial Planner" [as used in G.S. 78C-2(1)] includes a person who provides or offers to provide advisory services to clients or to prospective clients regarding the management of their financial resources based on an analysis of individual client needs. The Division hereby incorporates by reference the concepts of "financial planning" found in Section I of SEC Release No. 1A-1092, October 8, 1987, 52 F.R. 38400 (CCH Federal Securities Law Reporter 56,1561);
- (6) "Holds (oneself) out" [as used in G.S. 78C-2(1)] means advertises, announces, represents, communicates, publishes, discloses, or makes known, by any means or manner, that one will provide or is willing to provide the services referred to in G.S. 78C-2(1) to other persons;
- (7) The performance of investment advisory services is "solely incidental" [within the meaning of G.S. 78C-2(1)(c) and (d)] to the practice of a profession or to the conduct of a business when the person performing such services neither makes any charge nor receives any compensation, either direct or indirect, that is properly allocable to his rendering of such services. The Division hereby incorporates by reference the concepts found in Sections II (A)(3) and II (B) of SEC Release 1A-1092, October 8, 1987, 52 F.R. 38400 (CCH Federal Securities Law Reporter 56,1561).

Statutory Authority G.S. 78C-30(a).

### SECTION .1800 - MISCELLANEOUS PROVISIONS - INVESTMENT ADVISERS

#### .1811 FORMS

For use in compliance with the requirements of the provisions of Chapter 78C of the North Carolina General Statutes and the rules promulgated thereunder, the following forms are available upon request from the Securities Division:

- (7) North Carolina Securities Division Investment Adviser's Bond (Form NCIAB); and
- (8) Certification of Deposit of Cash or Securities -- Investment Advisers (Form CDCS-1A);
- (9) Consent To Service of Process (For Use By Investment Advisers and Investment Adviser Representatives Only);

- (10) Consent To Service of Process (For Use By Investment Adviser Representatives Only); and
- (11) Corporate Resolution (For Use By Investment Advisers Only).

Statutory Authority G.S. 78C-30(a); 78C-30(b).

## TITLE 21 - OCCUPATIONAL LICENSING BOARD

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Board of Nursing intends to amend rule(s) cited as 21 NCAC 36 .0218.*

*The proposed effective date of this action is September 1, 1990.*

*The public hearing will be conducted at 1:00 p.m. on June 21, 1990 at N.C. Board of Nursing Office, 3724 National Drive, Suite 201, Raleigh, NC 27612.*

*Comment Procedures: Any person wishing to address the Board relevant to the proposed rules should notify the Board by noon on June 20, 1990, register at the door the day of the hearing, and present the Hearing Officer with a written copy of the oral testimony. Oral presentations will be limited to three minutes per speaker. Written comments only should be directed, five days prior to the hearing date, to the N.C. Board of Nursing, P. O. Box 2129, Raleigh, NC 27602.*

### CHAPTER 36 - BOARD OF NURSING

#### SECTION .0200 - LICENSURE

##### .0218 LICENSURE WITHOUT EXAMINATION (BY ENDORSEMENT)

(a) The Board will provide an application form which the applicant who wishes to apply for licensure without examination (by endorsement) must complete in its entirety.

(1) The applicant for licensure by endorsement as a registered nurse is required to show evidence of:

(A) completion of a nursing program approved by the jurisdiction of original licensure;

(B) attainment of a standard score equal to or exceeding 350 on each test in the State Board Test Pool Examination administered prior to July 1982; or a standard score of 1600 on the licensing examination developed by the National Council of State Boards of Nursing, Inc. beginning in

July 1982 and up to and including the July 1988 examination; or beginning in February 1989, a score of "PASS". An exception to this requirement is made for the applicant who was registered in the original state prior to ~~September 1956~~ April 1964. Such applicant must have attained the score, on each test in the series, which was required by the state issuing the original certificate of registration;

(C) mental and physical health necessary to competently practice nursing; and

(D) unencumbered active license in original jurisdiction of licensure or another jurisdiction; if the license in the other jurisdiction has been inactive or lapsed for five or more years, the applicant will be subject to requirements for a refresher course as indicated in G.S. 90-171.35 and 90-171.36.

(2) The applicant for licensure by endorsement as a licensed practical nurse is required to show evidence of:

(A) completion of a program in practical nursing approved in the jurisdiction of original licensure or by meeting the requirements as cited in Rule .0211 (b)(2)(3) of this Section. The applicant who was graduated prior to July 1956 will be considered on an individual basis in light of licensure requirements in North Carolina at the time of original licensure;

(B) achievement of a passing score on the State Board Test Pool Examination or the licensing examination developed by the National Council of State Boards of Nursing, Inc. If originally licensed on or after September 1, 1957, and up to and including the April 1988 examination, an applicant for a North Carolina license as a practical nurse on the basis of examination in another state must have attained a standard score equal to or exceeding 350 on the licensure examination. Beginning in October 1988, an applicant must have received a score of "PASS" on the licensure examination. The applicant who was licensed prior to September 1, 1957 in the original jurisdiction will be considered on an individual basis in light of the licensure requirements in North Carolina at the time of original licensure;

(C) mental and physical health necessary to competently practice nursing; and

(D) unencumbered active license in original jurisdiction of licensure or another jurisdiction; if the license in the other jurisdiction has been inactive or lapsed for five



or more years, the applicant will be subject to requirements for a refresher course as indicated in G.S. 90-171.35 and 90-171.36.

(b) The North Carolina Board of Nursing will require applicants for licensure by endorsement to provide proof of secondary education achievement only if deemed necessary for identification, or other just cause.

(c) Individuals who have been licensed in Canada on the basis of the Canadian Nurses' Association Test Service Examination written in the English language are eligible to apply for registration by endorsement.

(d) A nurse educated and licensed outside the United States of America is eligible for North Carolina licensure by endorsement if the nurse has:

- (1) proof of education as required by the Board or a certificate issued by the Commission on Graduates of Foreign Nursing Schools; and

- (2) proof of passing the licensing examination developed by the National Council of State Boards of Nursing, Inc. in another jurisdiction.

(e) When completed application, evidence of current license in another jurisdiction, and fee are received in the Board office, a temporary license is issued to the applicant. Employer references may be requested to validate competent behavior to practice nursing.

(f) Facts provided by the applicant and the Board of Nursing of original licensure are compared to confirm the identity and validity of the applicant's credentials. Status in other states of current licensure is verified. When eligibility is determined, a certificate of registration and a current license for the remainder of the calendar year are issued.

*Statutory Authority* G.S. 90-171.23(b);  
90-171.33; 90-171.37.



*The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.*

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.*

*Upon request from the adopting agency, the text of rules will be published in this section.*

*Punctuation, typographical and technical changes to rules are incorporated into the **List of Rules Codified** and are noted as \* **Correction**. These changes do not change the effective date of the rule.*

## NORTH CAROLINA ADMINISTRATIVE CODE

### LIST OF RULES CODIFIED

MAY 1990

AGENCY				ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>				
1	NCAC 30A	.0301		Amended
		30D .0101 - .0103		Amended
		.0201 - .0202		Amended
		.0301 - .0304		Amended
		.0306		Amended
	30E	.0101 - .0103		Amended
		.0201 - .0202		Amended
		.0301 - .0302		Amended
		.0304 - .0306		Amended
		.0402		Amended
<u>DEPARTMENT OF AGRICULTURE</u>				
2	NCAC 42	.0102		Amended
		.0201		Amended
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>				
4	NCAC	12C .0007		ARRC Objection
		19Q .0102		Temp. Amended
				Expires 09-08-90
		.0201		Temp. Amended
				Expires 09-08-90
		.0301 - .0304		Temp. Amended
				Expires 09-08-90
		.0501 - .0503		Temp. Repealed
				Expires 09-08-90

OFFICES OF GOVERNOR/LIEUTENANT GOVERNOR

- 9 NCAC 2B Executive Order Number 107  
 Eff. March 14, 1990  
 Executive Order Number 108  
 Eff. March 19, 1990  
 Executive Order Number 109  
 Eff. March 29, 1990  
 Executive Order Number 110  
 Eff. March 29, 1990

DEPARTMENT OF HUMAN RESOURCES

- |    |      |     |               |              |
|----|------|-----|---------------|--------------|
| 10 | NCAC | 3C  | .1716         | Amended      |
|    |      | 7A  | .0107         | * Correction |
|    |      |     | .0209         | * Correction |
|    |      | 10A | .2501 - .2507 | Adopted      |
|    |      | 14C | .0102         | * Correction |
|    |      |     | .0320         | * Correction |
|    |      |     | .1001 - .1002 | * Correction |
|    |      |     | .1004         | * Correction |
|    |      |     | .1007 - .1008 | * Correction |
|    |      |     | .1011         | * Correction |
|    |      |     | .1133         | * Correction |
|    |      |     | .1137         | * Correction |
|    |      |     | .1139         | * Correction |
|    |      |     | .1143         | * Correction |
|    |      |     | .1401         | * Correction |
|    |      |     | .1405 - .1408 | * Correction |
|    |      | 14F | .0601         | * Correction |
|    |      | 14H | .0102 - .0104 | * Correction |
|    |      |     | .0201 - .0202 | * Correction |
|    |      |     | .0206 - .0207 | * Correction |
|    |      |     | .0301 - .0303 | * Correction |
|    |      |     | .0401         | * Correction |
|    |      |     | .0403         | * Correction |
|    |      | 14K | .0330 - .0331 | Amended      |
|    |      |     | .0347         | Amended      |
|    |      |     | .0361         | * Correction |
|    |      | 14L | .0101         | * Correction |
|    |      |     | .0401         | * Correction |
|    |      |     | .0501         | * Correction |
|    |      | 14M | .0201         | * Correction |
|    |      |     | .0301         | * Correction |
|    |      |     | .0401         | * Correction |
|    |      |     | .0501         | * Correction |
|    |      |     | .0708         | * Correction |
|    |      | 14N | .0301         | * Correction |
|    |      |     | .0401         | * Correction |
|    |      |     | .0501         | * Correction |
|    |      |     | .0601         | * Correction |
|    |      |     | .0801         | * Correction |
|    |      | 14O | .0101         | * Correction |
|    |      |     | .0201         | * Correction |
|    |      |     | .0301         | * Correction |
|    |      |     | .0401         | * Correction |
|    |      |     | .0501         | * Correction |
|    |      | 15A | .0401         | * Correction |

	.0404	* Correction
	.0501	* Correction
	.0601	* Correction
15E	.0601	Repealed
	.1002	Repealed
16A	.0101	* Correction
	.0105	* Correction
17A	.0104 - .0105	* Correction
	.0202	* Correction
18A	.0135	* Correction
18D	.0208	* Correction
18E	.0114 - .0116	* Correction
	.0217	* Correction
	.0222 - .0224	* Correction
	.0225	Repealed
18F	.0115 - .0119	Amended
	.0120	Repealed
	.0121 - .0122	Amended
	.0312	* Correction
	.0319	Amended
18H	.0107	* Correction
	.0116	* Correction
18I	.0118	* Correction
18J	.0110	* Correction
	.0115	Amended
	.0212 - .0213	* Correction
	.0304	* Correction
	.0507	* Correction
	.0601	* Correction
18L	.0701	* Correction
	.1101	* Correction
	.1301	* Correction
18M	.0107	* Correction
	.0406	* Correction
	.0505	* Correction
	.0607	* Correction
	.0701	* Correction
	.0801	* Correction
	.0901	Amended
	.0907	Amended
	.1001	Amended
	.1303	Amended
	.1401	* Correction
18O	.0517	* Correction
18P	.0901	* Correction
	.1001	* Correction
18S	.0201	* Correction
18U	.0201	* Correction
	.0203 - .0204	* Correction
	.0303 - .0304	* Correction
	.0403 - .0404	* Correction
	.0501	* Correction
	.0503 - .0504	* Correction
	.0601	* Correction
	.0603 - .0604	* Correction
	.0704	* Correction
	.0803 - .0804	* Correction
	.0903 - .0904	* Correction
	.1001 - .1003	* Correction

# FINAL RULES

	.1101 - .1103	* Correction
	.1202	* Correction
18V	.0002	* Correction
	.0003 - .0004	Amended
	.0005	* Correction
	.0006 - .0008	* Correction
18W	.0001 - .0004	* Correction
20C	.0101	Amended
	.0102 - .0113	Repealed
	.0114	Amended
	.0115 - .0118	Repealed
	.0119 - .0120	Amended
	.0122 - .0124	Amended
	.0301 - .0303	Amended
	.0305 - .0315	Amended
	.0316	Adopted
22F	.0104	Amended
22G	.0302	Amended
	.0408	Amended
	.0412 - .0413	Amended
	.0509	Amended
22H	.0103 - .0104	Amended
	.0201	Amended
	.0601	Amended
24A	.0401	Amended
	.0402	Repealed
	.0504	Amended
26A	.0001	Repealed
	.0002	Amended
26B	.0106	Amended
	.0121	Adopted
	.0205	Amended
26C	.0003	Amended
26D	.0007 - .0008	Amended
	.0013	Amended
26G	.0101	Amended
	.0106	Amended
	.0201	Amended
	.0401	Repealed
	.0501	Amended
	.0504	Amended
	.0511	Amended
	.0701	Repealed
	.0703	Amended
	.0801	Amended
26H	.0106	Amended
	.0204	Amended
	.0302	Amended
	.0602	Amended
	.0605	Amended
26I	.0101 - .0105	Amended
	.0107	Amended
26J	.0101	Amended
30	.0217	Temp. Adopted
		Expires 08-31-90
35A	.0001	Repealed
	.0003	Amended
35B	.0001	Repealed
	.0006 - .0007	Amended



35D	.0101	Repealed
	.0201	Amended
	.0203 - .0204	Amended
	.0301	Amended
	.0303 - .0304	Amended
	.0502	Amended
35E	.0101 - .0104	Amended
	.0106	Amended
	.0201	Amended
	.0204	Amended
	.0303 - .0304	Amended
	.0306 - .0307	Amended
	.0313	Amended
	.0315 - .0316	Amended
35F	.0008	Amended
36	.0102	Repealed
	.0104	Amended
	.0201	Amended
	.0203	Amended
	.0301 - .0302	Amended
	.0702	Amended
	.0705	Amended
	.0706	Repealed
40	.0101	Repealed
41A	.0006 - .0007	Amended
41E	.0403	Amended
	.0406	Amended
	.0502 - .0507	Amended
	.0511	Amended
	.0514	Amended
	.0603 - .0604	Amended
	.0701	Amended
	.0703 - .0704	Amended
41F	.0402 - .0407	Amended
	.0502	Amended
	.0503	Repealed
	.0701 - .0702	Amended
	.0704 - .0705	Amended
	.0802 - .0803	Amended
	.0805 - .0808	Amended
41G	.0505 - .0509	Amended
	.0511	Amended
	.0513	Amended
	.0601 - .0605	Amended
	.0701 - .0705	Amended
	.0708	Amended
	.0801	Amended
	.0803 - .0808	Amended
	.0902	Amended
	.1005 - .1009	Amended
	.1011	Amended
	.1013	Amended
	.1101 - .1105	Amended
	.1201 - .1205	Amended
	.1208	Amended
	.1301	Amended
	.1303 - .1308	Amended
	.1402	Amended
45F	.0001 - .0004	Repealed

45G	.0102	Amended
	.0106	Amended
	.0109 - .0112	Amended
	.0114	Amended
	.0115	* Correction
	.0117 - .0119	Amended
	.0121 - .0122	Amended
	.0123 - .0133	Repealed
	.0134	Amended
	.0137	Repealed
	.0138	Amended
	.0202	Amended
	.0304	* Correction
	.0305 - .0306	Amended
	.0401 - .0402	* Correction
	.0403	Repealed
	.0404	* Correction
	.0406	* Correction
	.0408	* Correction
	.0410 - .0412	* Correction
45H	.0201	Amended
	.0208	Amended
	.0210 - .0216	Amended
	.0219	* Correction
	.0220 - .0222	Amended
45I	.0001	Amended
46C	.0105	* Correction
46D	.0101	* Correction
46E	.0100	* Correction
46F	.0100	* Correction
49F	.0001 - .0004	Temp. Adopted Expires 08-31-90
50B	.0402	Temp. Amended Expires 09-30-90

DEPARTMENT OF JUSTICE

12	NCAC	2I	.0202	Temp. Amended Expires 09-20-90
----	------	----	-------	-----------------------------------

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	2D	.0535	Amended
			.0902	Amended
			.0946	Adopted
			.1101 - .1108	Adopted
		2H	.0602	Amended
			.0610	Adopted
		4A	.0001	Amended
			.0005	Amended
		4B	.0006	Amended
			.0007	Amended
			.0009 - .0010	Amended
			.0016	Amended
			.0017	Repealed
			.0018	Amended
			.0020	Amended
			.0024 - .0025	Adopted
		4C	.0007	Amended

---

**FINAL RULES**

---

4D	.0002	Amended
	.0003	Adopted
4E	.0102	Amended
7A	.0001	Amended
7B	.0202	Amended
7H	.0104	Amended
	.0205 - .0206	Amended
	.0208 - .0209	Amended
	.0404 - .0406	Amended
	.1104	Amended
	.1204 - .1205	Amended
	.1304	Amended
	.1402	Amended
	.1404	Amended
	.1504	Amended
	.1604	Amended
	.1702	Amended
	.1704	Amended
	.1804	Amended
	.1904 - .1905	Amended
7I	.0101	Amended
	.0205 - .0206	Amended
	.0305 - .0306	Amended
	.0401	Amended
	.0502	Amended
	.0506 - .0507	Amended
	.0509	Amended
7J	.0102	Amended
	.0407	Amended
	.0602	Amended
	.0701 - .0702	Amended
7K	.0203	Amended
	.0207 - .0208	Amended
7L	.0302	Amended
	.0304	Amended
7M	.0304	Amended
	.0503	Amended
7O	.0104	Amended
	.0201	Amended
10B	.0114	Amended
	.0209	Amended
	.0212	Amended

**DEPARTMENT OF PUBLIC EDUCATION**

16	NCAC	6D .0105	ARRC Objection
		6G .0301 - .0303	Adopted

**DEPARTMENT OF REVENUE**

17	NCAC	7B .0101	Amended
		.1401	Amended
		.1602	Amended
		.1701 - .1702	Amended
		.1704	Amended
		.1802	Amended
		.2101	Amended
		.2601	Amended
		.3001 - .3002	Amended



---

*FINAL RULES*

---

		.3007	Repealed
		.4003	Amended
7C		.0103	Amended

DEPARTMENT OF TRANSPORTATION

19A	NCAC	3J	.0306 - .0307	Amended
			.0401	Amended
			.0501	Amended
			.0508	Amended
			.0601	Amended

BOARD OF LANDSCAPE ARCHITECTS

21	NCAC	26	.0307	Adopted
----	------	----	-------	---------

BOARD OF MEDICAL EXAMINERS

21	NCAC	32A	.0004	Amended
		32B	.0205	Repealed
			.0214	Amended
			.0303	Repealed
			.0309	Amended
			.0508	Amended

BOARD OF EXAMINERS OF PLUMBING AND HEATING CONTRACTORS

21	NCAC	50	.0306	Amended
			.1102 - .1103	* Correction

REAL ESTATE LICENSING BOARD

21	NCAC	58A	.0106 - .0107	Amended
			.0502	Amended
			.1502	Amended
		58C	.0101 - .0105	Amended
			.0107	Amended
			.0301 - .0303	Amended
			.0306 - .0307	Amended
			.0308	Adopted
			.0309 - .0310	Amended
			.0401 - .0407	Adopted
		58D	.0101 - .0102	Adopted
			.0201 - .0209	Adopted
			.0301 - .0306	Adopted
			.0401 - .0409	Adopted
			.0501	Adopted

BOARD OF SANITARIAN EXAMINERS

21	NCAC	62	.0407	Amended
			.0411	Amended

OFFICE OF STATE PERSONNEL

25	NCAC	1E	.1301 - .1307	Adopted
----	------	----	---------------	---------

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
20	Treasurer	Nursing Home Administrators	37
*21	Occupational Licensing Boards	Occupational Therapists	38
22	Administrative Procedures	Opticians	40
23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration	44
25	State Personnel	Pharmacy	46
26	Administrative Hearings	Physical Therapy Examiners	48
		Plumbing and Heating Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers and Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech and Language Pathologists and Audiologists	64
		Veterinary Medical Board	66

**Note:** Title 21 contains the chapters of the various occupational licensing boards.

*CUMULATIVE INDEX*  
*(April 1990 - March 1991)*

1990 - 1991

Pages	Issue
1 - 151 .....	1 - April
152- 235 .....	2 - April
236- 285 .....	3 - May
286- 312 .....	4 - May

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

**AGRICULTURE**

- Plant Conservation Board, 1 PR
- Structural Pest Control Committee, 7 PR

**CRIME CONTROL AND PUBLIC SAFETY**

- State Highway Patrol, 53 PR

**ECONOMIC AND COMMUNITY DEVELOPMENT**

- Banking Commission, 16 PR
- Community Assistance, 25 PR
- Milk Commission, 24 PR

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

- Coastal Management, 136 PR, 292 PR
- Environmental Management, 54 PR, 193 PR
- Health Services, 190 PR
- Marine Fisheries, 63 PR
- Wildlife Resources and Water Safety, 137 PR, 206 PR, 293 PR

**FINAL DECISION LETTERS**

- Voting Rights Act, 241, 286

**FINAL RULES**

- List of Rules Codified, 143 FR, 226 FR, 302 FR

**GOVERNOR/LT. GOVERNOR**

- Executive Orders, 236



**HUMAN RESOURCES**

Health Services, 152 PR, 245 PR  
Medical Assistance, 191 PR  
Mental Health, Mental Retardation and Substance Abuse Services, 29 PR,  
Social Services, 247 PR  
Water Treatment Facility Operators Board of Certification, 27 PR  
Youth Services, 261 PR

**INSURANCE**

Life: Accident and Health, 264 PR, 287 PR

**JUSTICE**

Attorney General, Office of the, 192 PR, 273 PR

**LICENSING BOARDS**

Medical Examiners, Board of, 207 PR  
Nursing, Board of, 300 PR

**PUBLIC EDUCATION**

Elementary and Secondary, 141 PR, 275 PR

**REVENUE**

Sales and Use Tax, 213 FR

**SECRETARY OF STATE**

Securities Divison, 293 PR

**STATE PERSONNEL**

State Personnel Commission, 277 PR

**TRANSPORTATION**

Motor Vehicles, Division of, 222 FR



# NORTH CAROLINA ADMINISTRATIVE CODE

*The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. **Renewal** subscriptions for supplements to the initial publication are available at one-half the new subscription price.*

## PRICE LIST FOR THE SUBSCRIPTION YEAR

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
1 - 52	Full Code		All titles	\$750.00		
1	1	1 - 37	Administration	90.00		
2	2	1 - 24	Agriculture	75.00		
3	2	25 - 52	Agriculture	75.00		
4	3	1 - 4	Auditor	10.00		
5	4	1 - 2	ECD (includes ABC)	45.00		
6	4	3 - 20	ECD	90.00		
7	5	1 - 2	Correction	60.00		
8	5	3 - 4	Correction	30.00		
9	6	1 - 4	Council of State			
	7	1 - 11	Cultural Resources	60.00		
10	8	1 - 9	Elections	10.00		
11	9	1 - 4	Governor	45.00		
12	10	1 - 2	Human Resources	30.00		
13	10	3A - 3K	Human Resources	90.00		
14	10	3L - 3R	Human Resources (includes CON)	45.00		
15	10	3S - 3U	Human Resources	30.00		
16	10	4 - 6	Human Resources	30.00		
17	10	7	Human Resources (includes Breathalyzer)	30.00		
18	10	8 - 9	Human Resources	60.00		
19	10	10	Human Resources	90.00		
20	10	11 - 14	Human Resources	60.00		
21	10	15 - 17	Human Resources	45.00		
22	10	18	Human Resources	75.00		
23	10	19 - 30	Human Resources	90.00		
24	10	31 - 33	Human Resources	30.00		
25	10	34 - 41	Human Resources	60.00		
26	10	42	Human Resources	45.00		
27	10	43 - 51	Human Resources	90.00		
28	11	1 - 15	Insurance	90.00		

*Continued*



Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
29	12	1 - 12	Justice	90.00	_____	_____
30	13	1 - 6	Labor	30.00	_____	_____
31	13	7	OSHA	45.00	_____	_____
32	13	8 - 15	Labor	45.00	_____	_____
33	14A	1 - 11	Crime Control and Public Safety	45.00	_____	_____
34	15A	1 - 2	EHNR (includes EMC)	90.00	_____	_____
35	15A	3 - 6	EHNR	45.00	_____	_____
36	15A	7	Coastal Management	45.00	_____	_____
37	15A	8 - 9	EHNR	30.00	_____	_____
38	15A	10	Wildlife	45.00	_____	_____
39	15A	11 - 22	EHNR	60.00	_____	_____
40	16	1 - 6	Education	30.00	_____	_____
41	17	1 - 6	Revenue	75.00	_____	_____
42	17	7 - 11	Revenue	60.00	_____	_____
43	18	1 - 7	Secretary of State	30.00	_____	_____
44	19A	1 - 6	Transportation	90.00	_____	_____
45	20	1 - 9	Treasurer	45.00	_____	_____
46	21	1 - 16	Licensing Boards	75.00	_____	_____
47	21	17 - 37	Licensing Boards	75.00	_____	_____
48	21	38 - 70	Licensing Boards		_____	_____
	22	1 - 2	Administrative Procedures	75.00	_____	_____
49	23	1 - 2	Community Colleges	10.00	_____	_____
50	24	1 - 2	Independent Agencies	10.00	_____	_____
51	25	1	State Personnel	60.00	_____	_____
52	26	1 - 4	Administrative Hearings	10.00	_____	_____
				<b>Total</b>	_____	_____

*(Make checks payable to Office of Administrative Hearings.)*

\* This price includes the title in its current form plus supplementation for the subscription year.

*Subscription years are January 1 through December 31.*

**MAIL TO:**

OFFICE OF ADMINISTRATIVE HEARINGS  
POST OFFICE DRAWER 11666  
RALEIGH, NORTH CAROLINA 27604

Office of Administrative Hearings  
P. O. Drawer 11666  
Raleigh, North Carolina 27604

PLA  
STA  
HEH

---

---

---

FOLD HERE

## NORTH CAROLINA REGISTER ORDER FORM

Please enter my subscription for the *North Carolina Register* to start with the \_\_\_\_\_ issue.  
(\$105.00)/year subscription)

Renew *North Carolina Register*

Check Enclosed ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_

Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)